



Rep. Jerry F. Costello, II

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LRB098 06361 OMW 43621 a

1 AMENDMENT TO HOUSE BILL 2408

2 AMENDMENT NO. _____. Amend House Bill 2408 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Procurement Code is amended by
5 changing Section 45-57 as follows:

6 (30 ILCS 500/45-57)

7 Sec. 45-57. Veterans.

8 (a) Set-aside goal. It is the goal of the State to promote
9 and encourage the continued economic development of small
10 businesses owned and controlled by qualified veterans and that
11 qualified service-disabled veteran-owned small businesses
12 (referred to as SDVOSB) and veteran-owned small businesses
13 (referred to as VOSB) participate in the State's procurement
14 process as both prime contractors and subcontractors. Not less
15 than 3% of the total dollar amount of State contracts, as
16 defined by the Director of Central Management Services, shall

1 be established as a goal to be awarded to SDVOSB and VOSB. That
2 portion of a contract under which the contractor subcontracts
3 with a SDVOSB or VOSB may be counted toward the goal of this
4 subsection. The Department of Central Management Services
5 shall adopt rules to implement compliance with this subsection
6 by all State agencies.

7 (b) Fiscal year reports. By each September 1, each chief
8 procurement officer shall report to the Department of Central
9 Management Services on all of the following for the immediately
10 preceding fiscal year, and by each March 1 the Department of
11 Central Management Services shall compile and report that
12 information to the General Assembly:

13 (1) The total number of VOSB, and the number of SDVOSB,
14 who submitted bids for contracts under this Code.

15 (2) The total number of VOSB, and the number of SDVOSB,
16 who entered into contracts with the State under this Code
17 and the total value of those contracts.

18 (c) Yearly review and recommendations. Each year, each
19 chief procurement officer shall review the progress of all
20 State agencies under its jurisdiction in meeting the goal
21 described in subsection (a), with input from statewide
22 veterans' service organizations and from the business
23 community, including businesses owned by qualified veterans,
24 and shall make recommendations to be included in the Department
25 of Central Management Services' report to the General Assembly
26 regarding continuation, increases, or decreases of the

1 percentage goal. The recommendations shall be based upon the
2 number of businesses that are owned by qualified veterans and
3 on the continued need to encourage and promote businesses owned
4 by qualified veterans.

5 (d) Governor's recommendations. To assist the State in
6 reaching the goal described in subsection (a), the Governor
7 shall recommend to the General Assembly changes in programs to
8 assist businesses owned by qualified veterans.

9 (e) Definitions. As used in this Section:

10 "Armed forces of the United States" means the United States
11 Army, Navy, Air Force, Marine Corps, Coast Guard, or service in
12 active duty as defined under 38 U.S.C. Section 101. Service in
13 the Merchant Marine that constitutes active duty under Section
14 401 of federal Public Act 95-202 shall also be considered
15 service in the armed forces for purposes of this Section.

16 "Certification" means a determination made by the Illinois
17 Department of Veterans' Affairs and the Department of Central
18 Management Services that a business entity is a qualified
19 service-disabled veteran-owned small business or a qualified
20 veteran-owned small business for whatever purpose. A SDVOSB or
21 VOSB owned and controlled by females, minorities, or persons
22 with disabilities, as those terms are defined in Section 2 of
23 the Business Enterprise for Minorities, Females, and Persons
24 with Disabilities Act, may also ~~shall~~ select and designate
25 whether that business is to be certified as a "female-owned
26 business", "minority-owned business", or "business owned by a

1 person with a disability", as defined in Section 2 of the
2 Business Enterprise for Minorities, Females, and Persons with
3 Disabilities Act, ~~or as a qualified SDVOSB or qualified VOSB~~
4 ~~under this Section.~~

5 "Control" means the exclusive, ultimate, majority, or sole
6 control of the business, including but not limited to capital
7 investment and all other financial matters, property,
8 acquisitions, contract negotiations, legal matters,
9 officer-director-employee selection and comprehensive hiring,
10 operation responsibilities, cost-control matters, income and
11 dividend matters, financial transactions, and rights of other
12 shareholders or joint partners. Control shall be real,
13 substantial, and continuing, not pro forma. Control shall
14 include the power to direct or cause the direction of the
15 management and policies of the business and to make the
16 day-to-day as well as major decisions in matters of policy,
17 management, and operations. Control shall be exemplified by
18 possessing the requisite knowledge and expertise to run the
19 particular business, and control shall not include simple
20 majority or absentee ownership.

21 "Qualified service-disabled veteran" means a veteran who
22 has been found to have 10% or more service-connected disability
23 by the United States Department of Veterans Affairs or the
24 United States Department of Defense.

25 "Qualified service-disabled veteran-owned small business"
26 or "SDVOSB" means a small business (i) that is at least 51%

1 owned by one or more qualified service-disabled veterans living
2 in Illinois or, in the case of a corporation, at least 51% of
3 the stock of which is owned by one or more qualified
4 service-disabled veterans living in Illinois; (ii) that has its
5 home office in Illinois; and (iii) for which items (i) and (ii)
6 are factually verified annually by the Department of Central
7 Management Services.

8 "Qualified veteran-owned small business" or "VOSB" means a
9 small business (i) that is at least 51% owned by one or more
10 qualified veterans living in Illinois or, in the case of a
11 corporation, at least 51% of the stock of which is owned by one
12 or more qualified veterans living in Illinois; (ii) that has
13 its home office in Illinois; and (iii) for which items (i) and
14 (ii) are factually verified annually by the Department of
15 Central Management Services.

16 "Service-connected disability" means a disability incurred
17 in the line of duty in the active military, naval, or air
18 service as described in 38 U.S.C. 101(16).

19 "Small business" means a business that has annual gross
20 sales of less than \$75,000,000 as evidenced by the federal
21 income tax return of the business. A firm with gross sales in
22 excess of this cap may apply to the Department of Central
23 Management Services for certification for a particular
24 contract if the firm can demonstrate that the contract would
25 have significant impact on SDVOSB or VOSB as suppliers or
26 subcontractors or in employment of veterans or

1 service-disabled veterans.

2 "State agency" has the same meaning as in Section 2 of the
3 Business Enterprise for Minorities, Females, and Persons with
4 Disabilities Act.

5 "Time of hostilities with a foreign country" means any
6 period of time in the past, present, or future during which a
7 declaration of war by the United States Congress has been or is
8 in effect or during which an emergency condition has been or is
9 in effect that is recognized by the issuance of a Presidential
10 proclamation or a Presidential executive order and in which the
11 armed forces expeditionary medal or other campaign service
12 medals are awarded according to Presidential executive order.

13 "Veteran" means a person who (i) has been a member of the
14 armed forces of the United States or, while a citizen of the
15 United States, was a member of the armed forces of allies of
16 the United States in time of hostilities with a foreign country
17 and (ii) has served under one or more of the following
18 conditions: (a) the veteran served a total of at least 6
19 months; (b) the veteran served for the duration of hostilities
20 regardless of the length of the engagement; (c) the veteran was
21 discharged on the basis of hardship; or (d) the veteran was
22 released from active duty because of a service connected
23 disability and was discharged under honorable conditions.

24 (f) Certification program. The Illinois Department of
25 Veterans' Affairs and the Department of Central Management
26 Services shall work together to devise a certification

1 procedure to assure that businesses taking advantage of this
2 Section are legitimately classified as qualified
3 service-disabled veteran-owned small businesses or qualified
4 veteran-owned small businesses.

5 (g) Penalties.

6 (1) Administrative penalties. The Department of
7 Central Management Services shall suspend any person who
8 commits a violation of Section 17-10.3 or subsection (d) of
9 Section 33E-6 of the Criminal Code of 1961 or the Criminal
10 Code of 2012 relating to this Section from bidding on, or
11 participating as a contractor, subcontractor, or supplier
12 in, any State contract or project for a period of not less
13 than 3 years, and, if the person is certified as a
14 service-disabled veteran-owned small business or a
15 veteran-owned small business, then the Department shall
16 revoke the business's certification for a period of not
17 less than 3 years. An additional or subsequent violation
18 shall extend the periods of suspension and revocation for a
19 period of not less than 5 years. The suspension and
20 revocation shall apply to the principals of the business
21 and any subsequent business formed or financed by, or
22 affiliated with, those principals.

23 (2) Reports of violations. Each State agency shall
24 report any alleged violation of Section 17-10.3 or
25 subsection (d) of Section 33E-6 of the Criminal Code of
26 1961 or the Criminal Code of 2012 relating to this Section

1 to the Department of Central Management Services. The
2 Department of Central Management Services shall
3 subsequently report all such alleged violations to the
4 Attorney General, who shall determine whether to bring a
5 civil action against any person for the violation.

6 (3) List of suspended persons. The Department of
7 Central Management Services shall monitor the status of all
8 reported violations of Section 17-10.3 or subsection (d) of
9 Section 33E-6 of the Criminal Code of 1961 or the Criminal
10 Code of 2012 relating to this Section and shall maintain
11 and make available to all State agencies a central listing
12 of all persons that committed violations resulting in
13 suspension.

14 (4) Use of suspended persons. During the period of a
15 person's suspension under paragraph (1) of this
16 subsection, a State agency shall not enter into any
17 contract with that person or with any contractor using the
18 services of that person as a subcontractor.

19 (5) Duty to check list. Each State agency shall check
20 the central listing provided by the Department of Central
21 Management Services under paragraph (3) of this subsection
22 to verify that a person being awarded a contract by that
23 State agency, or to be used as a subcontractor or supplier
24 on a contract being awarded by that State agency, is not
25 under suspension pursuant to paragraph (1) of this
26 subsection.

1 (Source: P.A. 96-96, eff. 1-1-10; 97-260, eff. 8-5-11; 97-1150,
2 eff. 1-25-13.)".

3 Section 99. Effective date. This Act takes effect upon
4 becoming law.".